

Notice of Allowability

Application No.

10/650,365

Examiner

Bruce D. Hissong, Ph.D.

Applicant(s)

WEI ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendments filed on 4/30/07 and the supplemental response received on 7/3/07.
2. ☒ The allowed claim(s) is/are 52, 54, 56, 58-59, 61-62 (renumbered as claims 1-7).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

A. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in telephone interviews with the Applicant's representative, Dr. Albert Wai-Kit Chan, on 7/3/2007 and 7/9/2007.

B. The application has been amended as follows:

In the specification:

1. In page 4, line 35, please replace <http://www.intermune.com/wt/itmni/interferon> with www.intermune.com/wt/itmni/interferon.

2. In page 42, line 16, please replace "Table 1" with "Table 4".

3. In page 42, line 18, please replace "Table 1" with "Table 4".

In the claims:

3. Please cancel claims 48, 50, and 51.

4. In claim 52, please delete the phrase "can directly".

5. In claim 52, please replace "inhibit" with "inhibits".

6. In claim 52, please replace the phrase "expression of the polynucleotide" with "expression of the recombinant interferon".

7. In claim 58, please replace the phrase "wherein, the harvesting step" with "wherein the harvesting step".

REASONS FOR ALLOWANCE

A. The following is an examiner's statement of reasons for allowance:

The claims of the instant invention are drawn to a recombinant interferon produced by a method comprising encoding the nucleic acid of SEQ ID NO: 1 in an appropriate host. Although the resulting interferon polypeptide (SEQ ID NO: 2) encoded by SEQ ID NO: 1 has the same primary amino acid sequence as the consensus interferon known in the art, the nucleotide sequence of SEQ ID NO: 1 is novel, and thus the process of making the recombinant interferon by expressing SEQ ID NO: 1 in an appropriate host is also novel. Furthermore, the Applicants have provided evidence that the interferon encoded by SEQ ID NO: 1 has increased biological activity compared to an interferon not encoded by SEQ ID NO: 1, and also has a changed physical/spatial configuration.


B. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

C. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce D. Hissong, Ph.D., whose telephone number is (571) 272-3324. The examiner can normally be reached M-F from 8:30 am - 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, Ph.D., can be reached at (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BDH
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ROBERT S. LANDSMAN, PH.D.
PRIMARY EXAMINER